

Board of Zoning Appeals  
Town Hall, September 13, 2005, 7:00 p.m.

Members present were Chair Bob Haines, Pat Aldred, Larry Felts, Larry Gardner and Charles Lawson. Staff present was Recorder Cindy Lancaster and Engineer Rich Woodroof. Applicant Brent Hopper with Newmark Homes and 6 other citizens.

Chair Haines opened the meeting at 7:01 p.m.

Chair Haines led the Pledge of Allegiance.

Commissioner Aldred made a motion to approve the minutes of May 10, 2005, Commissioner Gardner seconded. Chair Haines amended the minutes by removing the word “would”, to correct sentence structure. The sentence now reads, “this procedure was best for this applicant.” The minutes were approved unanimously as amended.

Chair Haines briefly went over the procedures of the meeting. Noting that staff would proceed initially and the public would have input. He noted the procedure that could be taken by the applicant if this request was denied.

There were no comments from the audience at this time.

Engineer Woodroof noted that the applicant had requested to build a deck outside of the building envelope. He noted his denial was due to the definition of structure. He noted that the lots are small and you encroach on opposing lots.

Mr. Brent Hopper of Newmark Homes stated the reason this had gotten to this point is the interpretation of Nashville, Franklin and Brentwood allow this. He assumed Nolensville would allow this also.

Commissioner Aldred asked do all of you houses fill up the building envelope? Mr. Hopper stated that most all do not back up to another lot. The deeper floor plans are the ones that have this issue before them. Commissioner Aldred stated that she felt this was Newmark’s problem. Mr. Hopper reiterated that everywhere else a structure is defined only if it has a roof.

Commissioner Lawson asked the distance of the rear lot line? It was stated 15 – 20 feet. It was noted that they could have a concrete patio. Commissioner Lawson stated that every subdivision that he has worked in that is high, does have a deck.

Commissioner Felts asked, approximately how many plans do you have this problem with? Commissioner Haines had a map of the homes that the board reviewed noting other homes with this same issue.

Engineer Woodroof stated that if the administrative decision is overturned by this board, every issue within the Town of Nolensville will be allowed to build outside the building

envelope. Board member Lawson then asked if this would apply to everything in Bent Creek. Engineer Woodroof stated it would apply to everything within the town limits.

Ms. Judy Richmond, Real Estate Agent with Caldwell Banker, stated that she has sold one of these homes that has this problem. She stated that her buyer was an 80-year old man and if she had known he could not have a deck she would not have sold this particular home to him. She asked the board to make some type of concession for these homeowners.

Mr. Donnie Wheeler, homeowner at Bent Creek, stated that his concern is with his wife who has arthritis. He noted that he does have small children and a safety concern for them as well. He stated he did not understand the real issue of building the deck. Engineer Woodroof stated that it is an egress issue.

Mrs. Julie Wheeler, homeowner at Bent Creek, noted that she has a hard time with her current medical condition. She stated that when the lot was purchased it looked flat, although after building the home it was much higher.

Mr. Jim Howell, noted he is on lot 205 in Bent Creek. He demonstrated that if he stood up and held his arms up, his knuckles touched the bottom of his door going to the outside of his home. He stated that he has a 14 month old child and his concern is safety, in addition to the resale value of his home without a deck.

Board Member Felts stated he has a concern with this being a blanket, and asked if they could come back on a one-on-one basis for a variance.

Mr. Hopper stated that he submitted a “blanket” request due to the cost of each individual request. The cost would be \$50 per request. Board Member Felts stated that if he voted for this he would be opening pandora box.

Chair Haines stated that some of the lots you have built in the whole envelope and there isn't a problem. He noted that he feels for the residents that have bought these homes, but this board cannot vote from the heart. He stated that there is criteria that must be followed and in particular four issues. Engineer Woodroof reiterated that the request before this board is an appeal of an administrative decision, not a variance request.

Mr. Wheeler asked if they could build a deck that was not as deep and large. Engineer Woodroof stated that as long as it is built within the envelope.

Board Member Gardner made a motion to deny this request, Board Member Aldred seconded.

Mr. Ray Kash, Newmark Homes, asked if they could take a different route and apply for a variance for each of these homes? Engineer Woodroof stated that anyone can come before this Board if they follow the proper procedure.

Mr. Howell stated that previously criteria was mentioned to approve a variance, what are these criteria? Chair Haines and Engineer Woodroof explained this criteria.

Mr. Hopper asked that if he requested a variance for each of these homes what would be the time frame that they could be heard. Engineer Woodroof stated that the information must be into Town Hall 21 days prior to the meeting.

Ms. Richmond asked if there would be a chance that a variance would be allowed? Engineer Woodroof stated it is a possibility if the criteria is met.

The vote was then taken with Board Members Aldred, Felts, Gardner and Haines to deny this request and Board Member Lawson voted against. The board agreed that Staff's interpretation of the Zoning Ordinance was correct.

The meeting adjourned at 7:44.

Respectfully submitted,

Cindy Lancaster